



Boracay Island News Network

Biyernes, Pebrero 7, 2014

Forum shopping in a land registration case dismissed

The Kalibo Regional Trial Court Branch 7 presided by Judge Domingo Casiple Jr junked a land registration case for forum shopping.

The court found that one of the petitioner in Land Registration Case No. 512 titled "Eric B. Vargas representing all the heirs of Escolastico Vargas and, Sanny E. Alonsagay representing the heirs of Anselmo Ambay versus Fil Estate Properties Inc (FEPI) Et. Al.", was among the petitioners in the petition for cancellation dated May 26, 2006 filed before the Department of Environment and Natural Resources. Respondents in the DENR case, with the exception of Rosalia Gonzales Sarabia are the same respondents in the instant cause (LRC 512).

Respondent Josel D. Tirol Jr. represented by Jessica Tirol-Andan claimed that petitioners admit the pendency of the DENR case.

Petitioners, represented by Atty. Axel Gonzales, claimed ignorance of the DENR case alleging that the same may not have been filed. Also, petitioners claimed that there is no identity of parties, identity of rights or causes of action and identity as to the relief sought. Petitioners also alleged that the lot subject of DENR case is merely 18 hectares which the instant case, the case sought to be cancelled is more than 300 hectares located at Boracay Island.

The court cited the case in the Municipality of Taguig vs Court of Appeals, 489 SCRA 588 (2005) that forum shopping exists, when as a result of an adverse opinion in one forum, a party seeks a favorable opinion (other than by appeal or certiorari) in another, or when he institutes two or more actions or proceedings grounded on the same cause on the grounds that one or the other would make a favorable disposition.

The court emphasized that forum shopping can be committed in three ways as cited in Aoas vs Court of Appeals 1.) by filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (where the ground for dismissal is litis pendentis); 2.) by filing multiple cases based on the same cause of action and with the same prayer, the previous case having been finally resolved (where the ground for dismissal is res judicata); and 3) by filing multiple cases based on the same cause of action but with different prayers (splitting of case of action, where the ground for dismissal is also either litis pendentia or resjudicate).

The court further cited the Supreme Court ruling in Philippine Pharmawealth, Inc vs Pfizer, 635 SCRA 140 (2010) when it said: "It is worth noting that forum shopping exists not only when two cases are pending before different courts but also when two similar cases are filed with the court and another in an agency or quasi-judicial body or tribunal."

There is likewise identity of interest in both the DENR case and the case before Branch 7 of the regional trial court.

In dismissing the Land Registration case involving the land inherited by respondents in Boracay Island covered by OCT No. 18853, the court, cited certain Supreme Court doctrines against forum shopping when it asserted: "forum shopping could be cited by the other party as a ground to ask for summary or dismissal of the two (or more) complaints or petitions, and for the impositions of the other sanctions, which are direct contempt of court, criminal prosecution, and disciplinary action against the erring lawyer."

In the dismissed order dated January 8, 2014, Judge Casiple also denied the petitioners motion to litigate as indigent litigations. The court noted that certain petitioners have considerable income from real properties they own. Moreover, the court had noted that a settlement for Belyn Holdings

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in Civil Case No. 8203, petitioners, and admitted by their counsel, have previously received P11,000,000.00. There is still a supposed balance of P66,000,000.00 from Belyn Holdings of UCPB and are not indigent litigants in contemplation of the Rules of Court as petitioners had earlier claimed. The motion of petitioners failed to substantiate and comply with the income and property requirements as would allow a party to litigate as indigent litigant and to exempt payment of docket and other administrative fees.

sa Pebrero 07, 2014



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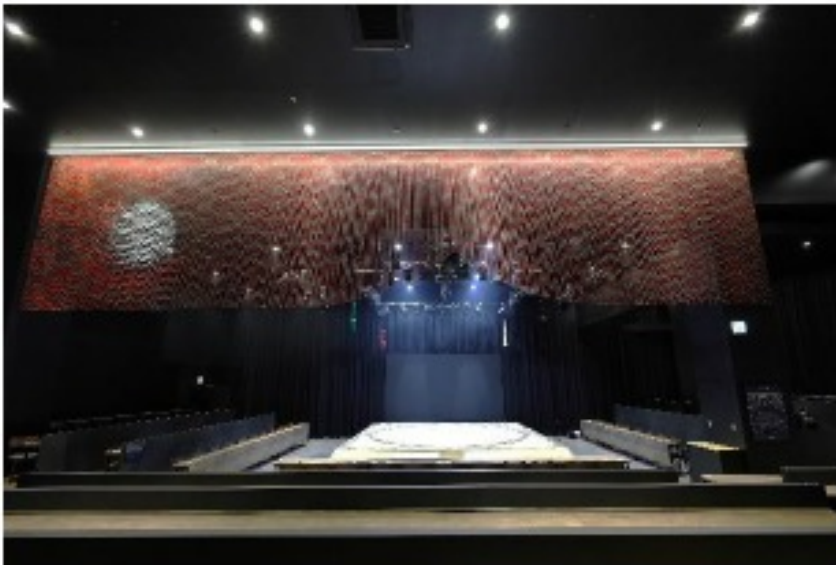
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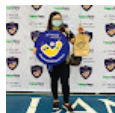
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